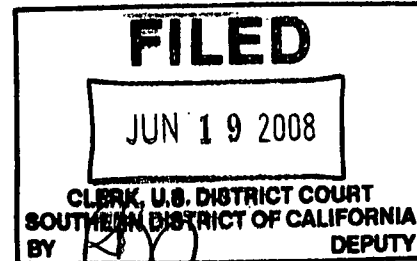


WILLIAM JOHN DAUGHTERY  
(Name)P.O. Box 2349/D10-110 WQ CUSP.  
(Address)BLYTHE, CA. 92226  
(City, State, Zip)F79985  
(CDC Inmate No.)

## United States District Court Southern District of California

WILLIAM JOHN DAUGHTERY

(Enter full name of plaintiff in this action.)

CDCR, # F79985

Plaintiff,

v.

D. WILSON, ESMERALDA TAGABANS.D. PD. OFFICERS, SGT. GRIFFIN,DETECTIVE LEMUS, S.D. PD. OFFICERS,THE CITY OF SAN DIEGO, S.D. POLICE DEPT.

(Enter full name of each defendant in this action.)

Defendant(s).

Civil Case No. 08CV0408-WQH  
(To be supplied by Court Clerk) (BLM)FIRST AMENDED

Complaint under the

Civil Rights Act

42 U.S.C. § 1983

DATE: 16 JUNE 2008

### A. Jurisdiction

Jurisdiction is invoked pursuant to 28 U.S.C. § 1343(a)(3) and 42 U.S.C. § 1983. If you wish to assert jurisdiction under different or additional authority, list them below.

### B. Parties

1. Plaintiff: This complaint alleges that the civil rights of Plaintiff, WILLIAM J. DAUGHTERY  
(print Plaintiff's name)  
, who presently resides at CUSP, CHUCKAWALLA  
(mailing address or place of confinement)  
VALLEY STATE PRISON, P.O. Box 2349/D10, BLYTHE, CA 92226 violated by the actions  
of the below named individuals. The actions were directed against Plaintiff at 16th & J  
STREETS, SAN DIEGO CA 92101 on (dates) 9 MAR 2006 et al, and \_\_\_\_\_  
(institution/place where violation occurred) (Count 1) (Count 2) (Count 3)

#1 Defendant DENNIS WILSON resides in SAN DIEGO, CA  
(name) (County of residence)  
 and is employed as a SAN DIEGO POLICE OFFICER. This defendant is sued in  
(defendant's position/title (if any))  
 his/her ☒ individual ☒ official capacity. (Check one or both.) Explain how this defendant was acting  
 under color of law: WILSON WAS ACTING AS PART OF A BUY-BUST NARCOTICS  
TEAM AS 'SCOOP' OR ARRESTING UNIT SUBSEQUENT TO REPORTED SALE  
TO AN UNDERCOVER AGENT. HE WAS IN FULL UNIFORM AND MARKED SQUAD CAR.

#2 Defendant ESMERALDA TAGABAN resides in SAN DIEGO, CA  
(name) (County of residence)  
 and is employed as a SAN DIEGO POLICE OFFICER. This defendant is sued in  
(defendant's position/title (if any))  
 his/her ☒ individual ☒ official capacity. (Check one or both.) Explain how this defendant was acting  
 under color of law: TAGABAN WAS ACTING AS PART OF A BUY-BUST NARCOTICS  
TEAM AS 'SCOOP' OR ARRESTING UNIT SUBSEQUENT TO REPORTED SALE  
TO AN UNDERCOVER AGENT. SHE WAS IN FULL UNIFORM AND DRIVING SQUAD CAR.

#3 Defendant SGT. GRIFFIN resides in SAN DIEGO, CA  
(name) (County of residence)  
 and is employed as a SAN DIEGO POLICE SERGEANT. This defendant is sued in  
(defendant's position/title (if any))  
 his/her ☒ individual ☒ official capacity. (Check one or both.) Explain how this defendant was acting  
 under color of law: AS SUPERVISOR OF BUY-BUST, INTEGRAL  
PARTICIPANT IN UNLAWFUL BEATING IN THAT HE WITNESSED  
SUPERVISED AND DID NOTHING TO STOP ILLEGAL ACTIVITIES

#4 Defendant DET. LEMUS resides in SAN DIEGO, CA  
(name) (County of residence)  
 and is employed as a SAN DIEGO POLICE DETECTIVE. This defendant is sued in  
(defendant's position/title (if any))  
 his/her ☒ individual ☒ official capacity. (Check one or both.) Explain how this defendant was acting  
 under color of law: INTEGRAL PARTICIPANT, WITNESSED  
UNLAWFUL BEATING, FAILED TO INTERVENE OR  
REPORT ILLEGAL ACTIVITIES

☒ Defendants: (Attach same information on additional pages if you are naming more than 4 defendants.)

#5 Defendant CITY OF SAN DIEGO resides in SAN DIEGO,  
(name) (County of residence)

and is employed as a INCORPORATED CITY. This defendant is sued in  
(defendant's position/title (if any))

his/her ☒ individual ☒ official capacity. (Check one or both.) Explain how this defendant was acting

under color of law: P.C. 815.2, A PUBLIC ENTITY IS LIABLE FOR  
INJURY PROXIMATELY CAUSED BY AN ACT OR OMISSION OF AN EMPLOYEE OF  
THE PUBLIC ENTITY WITHIN SCOPE OF HIS EMPLOYMENT IF ACT GIVE RISE TO ACTION

#6 Defendant SAN DIEGO POLICE DEPARTMENT resides in SAN DIEGO,  
(name) (County of residence)

and is employed as a GOVERNMENTAL AGENCY. This defendant is sued in  
(defendant's position/title (if any))

his/her ☒ individual ☒ official capacity. (Check one or both.) Explain how this defendant was acting

under color of law: P.C. 815.2, A PUBLIC ENTITY IS LIABLE FOR INJURY  
PROXIMATELY CAUSED BY AN ACT OR OMISSION OF AN EMPLOYEE OF THE

PUBLIC ENTITY WITHIN SCOPE OF HIS EMPLOYMENT IF ACT GIVE RISE TO ACTION

Defendant \_\_\_\_\_ resides in \_\_\_\_\_,  
(name) (County of residence)

and is employed as a \_\_\_\_\_. This defendant is sued in  
(defendant's position/title (if any))

his/her ☐ individual ☐ official capacity. (Check one or both.) Explain how this defendant was acting  
 under color of law: \_\_\_\_\_

Defendant \_\_\_\_\_ resides in \_\_\_\_\_,  
(name) (County of residence)

and is employed as a \_\_\_\_\_. This defendant is sued in  
(defendant's position/title (if any))

his/her ☐ individual ☐ official capacity. (Check one or both.) Explain how this defendant was acting  
 under color of law: \_\_\_\_\_

C. Causes of Action (You may want to attach pages explaining other causes of action and the facts supporting them if necessary.)

Count 1: The following civil right has been violated:

4th AMENDMENT USCA

(E.g., right to medical care, access to courts,

UNREASONABLE SEARCH AND SEIZURE, EXCESSIVE USE OF FORCE  
due process, free speech, freedom of religion, freedom of association, freedom from cruel and unusual punishment, etc.)

Supporting Facts: (Include all facts you consider important to Count 1. State what happened clearly and in your own words. You need not cite legal authority or argument. Be certain to describe exactly what each defendant, by name, did to violate the right alleged in Count 1.)

ON MARCH 9, 2006 ABOUT 800 PM OFFICER WILSON IN RESPONSE  
TO A PRE-ARRANGED RADIO SIGNAL, WAS DIRECTED 2 BLOCKS FROM THE  
SCENE OF A Buy-Bust UNDERCOVER STING OPERATION WHICH HE DID NOT  
WITNESS), INTO THE BLOCK IN WHICH I WAS WALKING SEDATELY. WILSON  
A UNIFORMED OFFICER, DRIVING MARKED PATROL CAR, APPROACHED ME  
FROM BEHIND, FLASHED HIS SPOTLIGHT UPON ME, THEN ACCCELERATED AND USED  
HIS VEHICLE TO BLOCK THE SIDEWALK I WAS ON. I HALTED ALL MOTION  
WILSON EXITED SQUAD CAR, CIRCLED FRONT END AND ADVANCED RAPIDLY,  
WITHOUT UTTERING A SINGLE WORD SUCH AS: "HALT, GET DOWN, HANDS UP  
OR ANY SOUND AT ALL, ALTHOUGH HE EXTENDED HIS HAND AND ARM  
(LEFT ARM) IN A HALT-TYPE GESTURE. THIS HAND SHOT OUT LIKE A  
STRIKING SNAKE AND GRIPPED MY THROAT, CHOKING MY AIR AND  
CONSTRICTING MY ARTERIES. HE THEN PIVOTED ON HIS LEFT FOOT TO  
SWING BEHIND ME WHILE ADJUSTING HIS GRIP AROUND MY THROAT  
INTO A CAROTID HOLD. THEN HE TRIPPED ME TO THE GROUND LANDING  
ON MY BACK. GAINING ADDITIONAL LEVERAGE, HE INCREASED PRESSURE TO MY NECK  
AND BEGAN BANGING MY HEAD INTO CONCRETE SIDEWALK, AT NO TIME DID  
I ATTEMPT TO FLEE, STRUGGLE, RESIST, SPEAK, SPIT, CURSE OR DO ANYTHING  
THAN TO SUBMIT. ONE MINUTE LATER, OFFICER E. TAGABAN (ALSO IN UNIFORM AND  
DRIVING MARKED SQUAD CAR) EXITED HER VEHICLE AND WITHOUT DELAY BEGAN  
BEATING MY HEAD AND LEFT SHOULDER WITH METAL 2 FOOT FLASHLIGHT  
WITH BATTERIES INSTALLED. SHE STRUCK 6 OR 8 TIMES PRIOR TO WILSON  
STATING THAT "HE HAS SOMETHING IN HIS MOUTH." THEN SHE  
RESUMED BEATING WITH THE FLASHLIGHT WITH MORE

Count 2: The following civil right has been violated: 14th Amendment USCA.  
(E.g., right to medical care, access to courts,

UN REASONABLE SEARCH AND SEIZURE; EXCESSIVE USE OF FORCE.  
due process, free speech, freedom of religion, freedom of association, freedom from cruel and unusual punishment, etc.)

Supporting Facts: (Include all facts you consider important to Count 2. State what happened clearly and in your own words. You need not cite legal authority or argument. Be certain to describe exactly what each defendant, by name, did to violate the right alleged in Count 2.)

VIGOR, ABOUT 6 MORE STRIKES TO THE HEAD AND LEFT PARTS OF MY UPPER BODY NOT SHIELDED BY WILSON'S BODY. I LOST CONSCIOUSNESS FOR AN UNDETERMINED AMOUNT OF TIME. I WAS NEXT COGNIZANT OF MY SURROUNDINGS SITTING IN WILSON'S SQUAD CAR. A PERSON ARRESTED EARLIER WAS SEATED NEXT TO ME AND SAID I SAW THE WHOLE THING AND I AM GOING TO TESTIFY FOR YOU! IT WAS 'FOUL' WHAT THEY DID. (THIS WAS MR. MONTGOMERY AND HE DID IN FACT LATER TESTIFY IN PC 1538.5 SUPPRESSION HEARING AND HIS TESTIMONY WAS READ INTO THE RECORD AT TRIAL). OFFICER TAGABAN ALSO HAD AN ARRESTEE IN HER CAR WHO ALSO TESTIFIED AT TRIAL, BUT NOT 1538.5 HEARING. OFFICER DETECTIVE LEMUS (UNDERCOVER AGENT) AND SGT. GRIFFIN, PRESENT AT SCENE OF BEATING ALSO TESTIFIED AND DID NOTHING TO HALT ILLEGAL ACTS. I COMPLAINED OF INJURIES AND WAS REFUSED MEDICAL ATTENTION TO CONCEAL THE ABUSE. INSTEAD, I WAS TAKEN TO CONVEY MENTAL HOSPITAL FOR PSYCH EVALUATION, GIVEN CURSORY EXAM BY PSYCHIATRIC NURSE WHO DISCOVERED PART OF WOUNDS. LATER PHOTOGRAPH REVEALED HEAD INJURIES, INCLUDING 'BOOKING' PHOTO. I AT NO TIME RECEIVED TREATMENT WHILE IN OFFICERS CUSTODY. I WAS SUBSEQUENTLY CONVICTED OF SALES OF CRACK COCAINE, S.D. SUPERIOR COURT CASE NO. SCD1975 49/ABS 652, COURT OF APPEAL (PENDING) # D51313. THIS ACTION DOES NOT (1983) CONSTITUTE AN ATTACK ON THE CONVICTION AND THEREFORE NO COLLATERAL ESTOPPEL WILL ENSUE AS PER: KAUFMAN V. MOSS (1970) 420 F. 2d 1270, 1274 (3d CIR 1970). QUOTING KAUFMAN V. MOSS: THERE IS 'NOTHING IN THE RECORD WHICH SUPPORTS THE CONCLUSION THAT THE SUPERIOR COURT DECIDED THAT THE FORCE USED IN ARREST WAS REASONABLE FOR PURPOSES. BARRING A SUBSEQUENT LITIGATION.'

Count 3: The following civil right has been violated: \_\_\_\_\_



14th Amendment USGA

(E.g., right to medical care, access to counsel,

UNREASONABLE SEARCH AND SEIZURE; EXCESSIVE USE OF FORCE  
 due process, free speech, freedom of religion, freedom of association, freedom from cruel and unusual punishment, etc.)

Supporting Facts: [Include all facts you consider important to Count 3. State what happened clearly and in your own words. You need not cite legal authority or argument. Be certain to describe exactly what each defendant, by name, did to violate the right alleged in Count 3.]

FOR EXCESSIVE OR UNREASONABLE USE OF FORCE." THE STATE  
WILL STILL HAVE AN OPPORTUNITY TO ESTABLISH ITS CONTENTIONS  
AT TRIAL. THE TRIAL COURT USED A "SHOCK THE CONSCIOUS" STANDARD  
WHEREAS CIVIL DICTATES A "REASONABLENESS" STANDARD. THE ATTACK  
BY WILSON AND TAGABAN WAS UNWARRANTED BY THE PARTICULAR  
FACTS AND CIRCUMSTANCES OR CONSIDERATIONS OF SELF-DEFENSE OR  
PUBLIC SAFETY CONCERNS, UNLIKE; PEO. V. CISNERAS (1963) 29 CAL  
RPT. 146, 214 CAL. APP. 2d 62, 1, AT NO TIME RESISTED, IMMEDIATELY  
EVASIONED OR ATTEMPTED ESCAPE OR TRIED VIOLENCE. I ASK EQUITABLE  
TOLLING OF ALL LIMITATIONS STATUTES IN THAT IN ADDITION TO  
HAVING LONG STANDING MENTAL PROBLEMS AT WELL AS UNDERGOING  
TREATMENT SUBSEQUENT TO THIS ASSAULT, I HAVE BEEN SHUTTLED  
TO SIX (6) DIFFERENT JAILS AND PRISONS AND HAVE HAD DIFFICULTY  
CONTACTING WILLING ATTORNEYS, AS WELL AS FILING COMPLAINT  
WITH POLICE INTERNAL AFFAIRS, AND SEEKING REFERRALS FROM STATE & COUNTY  
BAR ASSNS. I DID NOT RESIST THIS ATTACK. EVANS V. CITY OF BAKERS-  
FIELD (1994) 22 CAL RPT. 2d 406, 22 CAL APP 4th 321 (5th DIST  
CAL APP 1994). NO QUALIFIED IMMUNITY. HOPE V. PELZER 122  
S. CT. 2508 (US 2002), GLOTT, V. RAMIREZ 124 S. CT. 1284  
(US 2004), ROBINSON V. SOLANO COUNTY 278 F3d 1007. (9th CIR  
2002), ELENE H. V. COUNTY OF LOS ANGELES (1990) 220 CAL APP  
3d 1445, 269 CAL RPT. 783, BLACK V. STEPHENS (CA 3 (Pa)  
1981) 662 F 2d 181, 661 F 2d 87, FEENSTER V. DEANTJER  
(CA 8 (MO) 1981) POLICE NEVER JUSTIFIED IN USING FORCE ON  
QUIETLY SUBMITTING ARRESTEE.

#### D. Previous Lawsuits and Administrative Relief

1. Have you filed other lawsuits in state or federal courts dealing with the same or similar facts

C. Causes of Action (You may attach additional pages alleging other causes of action and the facts supporting them if necessary.)

Count 5: The following civil right has been violated: 4<sup>th</sup> AMENDMENT USCA  
(E.g., right to medical care, access to courts,

UNREASONABLE SEARCH AND SEIZURE, EXCESSIVE USE OF FORCE

due process, free speech, freedom of religion, freedom of association, freedom from cruel and unusual punishment, etc.) STATE TORT: GOV. T CODE § 810 ET SEQ. ASSAULT + BATTERY PC. 245

AND NEGLIGENCE IN FAILURE TO PROVIDE MEDICAL ASSISTANCE  
INVOKE PENDENT JURISDICTION.

Supporting Facts: [Include all facts you consider important to Count 1. State what happened clearly and in your own words. You need not cite legal authority or argument. Be certain to describe exactly what each defendant, by name, did to violate the right alleged in Count 5.]

BOTH THE CITY OF SAN DIEGO AND THE POLICE DEPARTMENT ARE  
LIABLE FOR INJURIES PROXIMATELY CAUSED BY ACTS OR OMISSIONS  
OF EMPLOYEES OF PUBLIC ENTITIES ACTING WITHIN SCOPE OF THEIR  
EMPLOYMENT, IF THE ACTS OR OMISSIONS WOULD, APART FROM THIS  
SECTION, HAVE GIVEN RISE TO A CAUSE OF ACTION AGAINST THOSE

EMPLOYEES (PARAPHRASE OF CAL. GOVERNMENT CODE 815.2. THE CITY AND

POLICE DEPARTMENT ARE VICARIOUSLY LIABLE UNDER THE DOCTRINE

OF RESPONDEAT SUPERIOR FOR 3 REASONS (PEREZ V. VAN

GRONINGEN & SONS INC. (1986) 41 CAL 3D 962, 967, 227 CAL RPTR 106

719 P.2D 676) ① PREVENT RECURRENCE OF TORTIOUS CONDUCT.

② TO GIVE GREATER ASSURANCE OF COMPENSATION FOR THE VICTIM ③ AND TO

ENSURE THAT VICTIMS LOSSES WILL BE EQUITABLY BORNE BY THOSE WHO  
BENEFIT FROM THE ENTERPRISE THAT GAVE RISE TO THE INJURY."

POLICE HAVE GREATER RESPONSIBILITY: MARY M. V. CITY OF LOS ANGELES

(1999) 285 CAL RPTR 99, 54 CAL 3D 202, INHERENT IN [54 CAL

3D 217] THIS FORMIDABLE POWER IS THE POTENTIAL FOR ABUSE, THE

COST RESULTING FROM MISUSE OF THAT POWER SHOULD BE BORNE BY THE

COMMUNITY BECAUSE OF THE SUBSTANTIAL BENEFITS THAT THE COMMUNITY

DERIVES FROM THE LAWFUL EXERCISE OF POLICE POWER. 'MARY M. 285

CAL RPTR 107 PARA 3. CITY NOT RELIEVED OF LIABILITY FOR ASSAULT

+ BATTERY ON GROUND THAT ACTS OF POLICE WERE ULTRA VIRES -

(JONES V. CITY OF LOS ANGELES) (1965) 30 CAL RPTR 124, 215 CAL APP

2D 155, WHITE V. CITY OF ORANGE (1985) 212 CAL RPTR 493, 166

CAL APP 3D 566. ~~BLACK~~ BLACK V. STEPHENS 662 F2D 181 (1981) CA3(Pa)

POLICE EXCESSIVE FORCE VICARIOUS LIABILITY: CITY OF LOS ANGELES

V. SUPERIOR COURT (1973) 33 CAL APP 3D 778, 782, 109 CAL RPTR 365

MERRIWETHER V. COUGHLIN, 879 F2D 1037 (2ND CIR. 1989)

involved in this case? ☐ Yes ☒ No.

If your answer is "Yes", describe each suit in the space below. [If more than one, attach additional pages providing the same information as below.]

(a) Parties to the previous lawsuit:

Plaintiffs: \_\_\_\_\_

Defendants: \_\_\_\_\_

(b) Name of the court and docket number: \_\_\_\_\_

(c) Disposition: [ For example, was the case dismissed, appealed, or still pending? ] \_\_\_\_\_

(d) Issues raised: \_\_\_\_\_

(e) Approximate date case was filed: \_\_\_\_\_

(f) Approximate date of disposition: \_\_\_\_\_

2. Have you previously sought and exhausted all forms of informal or formal relief from the proper administrative officials regarding the acts alleged in Part C above? [E.g., CDC Inmate/Parolee Appeal Form 602, etc.] ? ☒ Yes ☐ No.

If your answer is "Yes", briefly describe how relief was sought and the results. If your answer is "No", briefly explain why administrative relief was not sought.

FILED CITIZENS' COMPLAINT WITH INTERNAL  
AFFAIRS DIVISION OF SAN DIEGO POLICE DEPARTMENT  
INVESTIGATION - PENDING AT PRESENT.



**E. Request for Relief**

Plaintiff requests that this Court grant the following relief:

1. An injunction preventing defendant(s): \_\_\_\_\_

\_\_\_\_\_

2. Damages in the sum of \$ 2.5 MILLION DOLLARS

3. Punitive damages in the sum of \$ 1.5 MILLION DOLLARS

4. Other: \_\_\_\_\_

**F. Demand for Jury Trial**

Plaintiff demands a trial by ☐ Jury ☐ Court. (Choose one.)

**G. Consent to Magistrate Judge Jurisdiction**

In order to insure the just, speedy and inexpensive determination of Section 1983 Prisoner cases filed in this district, the Court has adopted a case assignment involving direct assignment of these cases to magistrate judges to conduct all proceedings including jury or bench trial and the entry of final judgment on consent of all the parties under 28 U.S.C. § 636(c), thus waiving the right to proceed before a district judge. The parties are free to withhold consent without adverse substantive consequences.

The Court encourages parties to utilize this efficient and expeditious program for case resolution due to the trial judge quality of the magistrate judges and to maximize access to the court system in a district where the criminal case loads severely limits the availability of the district judges for trial of civil cases. Consent to a magistrate judge will likely result in an earlier trial date. If you request that a district judge be designated to decide dispositive motions and try your case, a magistrate judge will nevertheless hear and decide all non-dispositive motions and will hear and issue a recommendation to the district judge as to all dispositive motions.

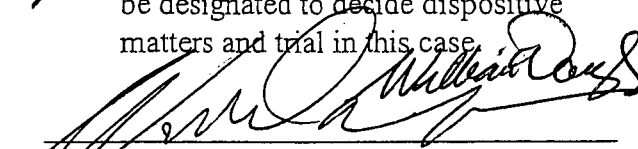
You may consent to have a magistrate judge conduct any and all further proceedings in this case, including trial, and the entry of final judgment by indicating your consent below.

Choose only one of the following:

☐ Plaintiff consents to magistrate judge jurisdiction as set forth above.

OR ☒ Plaintiff requests that a district judge be designated to decide dispositive matters and trial in this case.

16 JUNE 2008  
Date

  
Signature of Plaintiff

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

DEFENDANTS DENNIS WILSON; et AL

(IN U.S. PLAINTIFF CASES ONLY)

Attorneys (If Known)

San Diego, City Attorney  
1200 Third Ave  
San Diego, CA. 92101

**III. CITIZENSHIP OF PRINCIPAL PARTIES**(Place an "X" in One Box for Plaintiff  
(For Diversity Cases Only) and One Box for Defendant)

	<del>PTF</del> P 1	<del>DEF</del> D 1		PTF P 4	DEF D 4
Citizen of This State	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Incorporated <i>or</i> Principal Place of Business In This State	<input type="checkbox"/>	<input type="checkbox"/>
Citizen of Another State	<input type="checkbox"/>	<input type="checkbox"/>	Incorporated <i>and</i> Principal Place of Business In Another State	<input type="checkbox"/>	<input type="checkbox"/>
Citizen or Subject of a Foreign Country	<input type="checkbox"/>	<input type="checkbox"/>	Foreign Nation	<input type="checkbox"/>	<input type="checkbox"/>

CONTRACT		TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal. 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes	
<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<b>LABOR</b>	<b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(gg)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(gg))	<b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609			
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input checked="" type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <b>Habeas Corpus:</b> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition				

(Place an "X" in One Box Only)

☒ 1 Original Proceeding    ☐ 2 Removed from State Court    ☐ 3 Remanded from Appellate Court    ☐ 4 Reinstated or Reopened    ☐ 5 Transferred from another district (specify)    ☐ 6 Multidistrict Litigation    ☐ 7 Judge from Magistrate Judgment

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Brief description of cause: **EXCESSIVE FORCE 14<sup>TH</sup> AMEND. VIOLATION**

VII. REQUESTED IN COMPLAINT: ☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ \$4,000,000 TOTAL CHECK YES only if demanded in complaint: JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY (See instructions): JUDGE WILLIAM Q HAYES DOCKET NUMBER 08 CV 408-<sup>(B2M)</sup>WQH

DATE \_\_\_\_\_ SIGNATURE OF ATTORNEY OF RECORD \_\_\_\_\_

DATE 6-16-2008

**FOR OFFICE USE ONLY**

RECEIPT #	AMOUNT	APPLYING IFP	JUDGE	MAG. JUDGE
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DECLARATION  
Proof of Service By MAIL

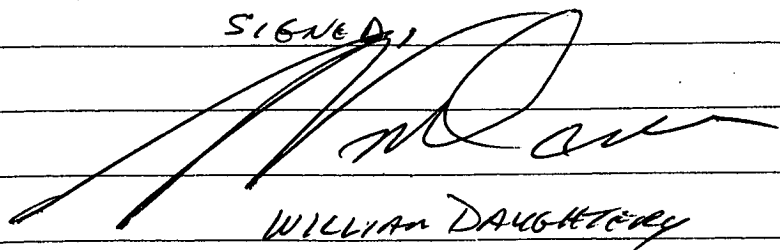
FIRST AMENDED COMPLAINT DATED 16 June 2008  
CASE NO. 08CV408 (WQH) BLM

UNITED STATES DISTRICT COURT.  
SOUTHERN DISTRICT OF CALIFORNIA

I, THE PLAINTIFF IN THE ABOVE ENTITLED  
CASE, DO CERTIFY AND SWEAR UNDER PENALTY  
OF PERJURY, THAT THE FOREGOING DOCUMENT  
HAS BEEN SERVED BY MAIL ON THE DEFENDANTS'  
ATTORNEYS OF RECORD:

MICHAEL S. AGUIRRE, CITY ATTORNEY  
C/O WENDY E. DAVISSON, DEPUTY CITY ATTORNEY  
CALIFORNIA STATE BAR NO. 199146  
1200 THIRD AVENUE, SUITE 1100  
SAN DIEGO, CALIFORNIA 92101-4100

SIGNED:



WILLIAM DAUGHERTY

16 JUNE 2008